

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

September 24, 2003

Mr. Jesse "Jay" Taken Alive
Standing Rock Sioux Tribal Council
P.O. Box D
Fort Yates, ND 58538

Re: Tongue River Railroad Company, Inc. – Finance Docket 31086 (Sub-No. 3) – Construction and Operation of the Western Alignment – National Historic Preservation Act Consultation Process

Dear Mr. Taken Alive,

The Surface Transportation Board's (Board's) Section of Environmental Analysis (SEA) is conducting an environmental review of Tongue River Railroad Company's (TRRC's) proposed rail construction and operation of the Western Alignment in Rosebud and Bighorn Counties, Montana, pursuant to the National Environmental Policy Act and related environmental regulations, including the National Historic Preservation Act (NHPA).

In consultation with Ethnoscience, who is working with SEA as a third party contractor in this case, we have identified your tribe as a potential consulting party to the Section 106 process of the NHPA and are writing to invite you to participate as a consulting party in the Section 106 process. Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process at 36 CFR Part 800, consulting parties participate throughout the Section 106 process and work with all involved parties to try to resolve any issues. However, the concurrence of consulting parties in the final outcome of the Section 106 process is not required. If you would like to be included as a consulting party, we request that you provide us with the name and contact information for the individual who will act as the spokesperson for your tribe throughout the Section 106 process.

TRRC is planning to construct and operate a rail line from Miles City to Decker in Custer, Rosebud, Powder River and Bighorn Counties, Montana. The Board and its predecessor agency, the Interstate Commerce Commission (ICC), have previously approved two applications involving TRRC. The previous applications are referred to as Tongue River I and Tongue River II. Tongue River I, which was approved by the ICC in 1986, refers to 89 miles of rail line

located between Miles City and Ashland, Montana. Tongue River II, which was approved by the Board in 1996, refers to 41 miles of rail line running south from Ashland to connect with existing rail lines serving the Decker, Montana coal mines. In 1998, TRRC filed an application with the Board seeking authority to construct and operate a 17.3-mile line of railroad in Rosebud and Bighorn Counties, known as the "Western Alignment" and referred to as Tongue River III. Tongue River III proposes an alternative routing for a portion of the 41-mile Ashland to Decker rail line known as the Four Mile Creek alternative, which was approved by the Board in Tongue River II. Maps depicting the location of the approved rail line and the proposed alignment for Tongue River III, along with the locations of Native American Reservations, are attached.

The environmental review of Tongue River III was suspended in March, 2000, at the request of the applicant. In March 2003, the Board granted the applicant authority to file updated evidence on the transportation aspects of their Tongue River III application. The applicant submitted this updated evidence on May 1, 2003. Environmental processing of the application, which includes NHPA compliance, has now resumed.

SEA had initiated the NHPA Section 106 compliance process for Tongue River III in 1998 and had prepared a draft Programmatic Agreement (PA) in consultation with the Montana State Historic Preservation Office; Advisory Council on Historic Preservation; U.S. Army Corps of Engineers; U.S. Department of the Interior, Bureau of Land Management; U.S. Department of Agriculture, Agricultural Research Service; Montana Department of Natural Resources and Conservation; and the Northern Cheyenne Indian Tribe. At that time, your tribe did not participate as a consulting party. SEA is now resuming the review and approval process to complete the PA. The draft PA will be included as an appendix to the environmental document prepared for Tongue River III, a Supplement to the Final Environmental Impact Statement (SEIS) which was prepared for Tongue River II.

If your tribe would like to participate in the NHPA Section 106 compliance process at this time as a consulting party, please provide us with the name and contact information for the individual who will act as the spokesperson for your tribe throughout the Section 106 process. If you would like more information on the consultation process or the role of consulting parties in the process, please do not hesitate to contact me or Kenneth Blodgett of my staff by telephone at (202) 565-1554, fax at (202) 565-9000, or e-mail at blodgettk@stb.dot.gov by October 20, 2003. We look forward to hearing from you.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis



